

transactions, including a code of professional responsibility;

(2) Monitor the requirements of the Federal financial institutions regulatory agency and Resolution Trust Corporation with respect to appraisal standards for federally related transactions and determinations as to which federally related transactions require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) Monitor and review the practices, procedures, activities and organizational structure of the Appraisal Foundation; and

(4) Maintain a national registry of State certified and licensed appraisers eligible to perform appraisals in federally related transactions.

§ 1102.303 Organization and methods of operation.

(a) *Statutory and other guidelines.* Statutory requirements relating to the ASC's organization are stated in 12 U.S.C. 3310, 3333 and 3334. The ASC has adopted and published Rules of Operation guiding its administration, meetings and procedures. These Rules of Operation were published at 56 FR 28561 (June 21, 1991) and 56 FR 33451 (July 22, 1991).

(b) *ASC members and staff.* The ASC is composed of six members, each being designated by the head of their respective agencies: the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, Office of Thrift Supervision, and the Department of Housing and Urban Development. Administrative support and substantive program, policy and legal guidance for ASC activities are provided by a small, full-time, professional staff supervised by the Executive Director, Associate Director for Administration, Associate Director for Policy and Programs and the General Counsel.

(c) *FFIEC.* Title XI placed the ASC within FFIEC as a separate, appropriated agency of the United States Government with specific statutory responsibilities under Federal law.

(d) *ASC Address.* ASC offices are located at 2100 Pennsylvania Avenue NW., suite 200, Washington, DC 20037.

§ 1102.304 General requirements, exemptions, procedures and other matters.

(a) *In general.* The ASC, as part of the FFIEC, has determined that the FFIEC's regulations at 12 CFR 1101.4 and 1101.5 pertaining to the implementation of FOIA will guide the ASC's implementation of, and compliance with, FOIA. Therefore, the ASC is incorporating by reference into this subpart the FFIEC's regulations at 12 CFR 1101.4 and 1101.5, subject to the following conforming changes.

(b) *Exceptions.* Because the ASC is an appropriated U.S. Government agency with specific statutory responsibilities, the FFIEC's regulations at 12 CFR 1101.4 and 1101.5, as incorporated by reference into this subpart, are amended as follows:

(1) All references to the term "Council" in 12 CFR 1101.4 and 1101.5 shall be deleted, and the term "ASC" shall be inserted;

(2) All references to the term "Executive Secretary" in 12 CFR 1101.4 and 1101.5 shall be deleted, and the term "Executive Director" shall be inserted;

(3) All references to "§ 1101.3(e)" in 12 CFR 1101.4 (a) and (b)(3) (i) and (iii) shall be deleted, and new references to "§ 1102.303(d)" shall be inserted; and

(4) The reference to "\$.25" in 12 CFR 1101.4(b)(5)(ii)(C)(1) shall be deleted and "\$.15" shall be inserted.

§ 1102.305 Availability of interpretive, no-action and other written communications.

(a) *In general.* Subject to the provisions of § 1102.304 and subpart C of this part, certain types of ASC written communications shall be made publicly available upon request.

(b) *Types of written communications.* The following types of written communications shall be subject to paragraph (a) of this section:

(1) The ASC's annual report to Congress;

(2) All final opinions and orders made in the adjudication of cases;

(3) All statements of general policy not published in the FEDERAL REGISTER.

(4) Requests for the ASC or its staff to provide interpretive advice with respect to the meaning or application of any statute administered by the ASC or any rule or regulation adopted thereunder and any ASC responses thereto;

(5) Requests for a statement that, on the basis of the facts presented in such a request, the ASC would not take any enforcement action pertaining to the facts as represented and any ASC responses thereto; and

(6) Correspondence between the ASC and a State appraiser regulatory agency arising out of the ASC's field review of the State agency's appraiser regulatory program.

(c) *Embargo period.* Unless the ASC determines otherwise, the written communications in paragraph (b) of this section shall be made publicly available no sooner than ten business days after a written response has been sent or given to the affected person or persons.

[59 FR 1902, Jan. 13, 1994]

§ 1102.306 Confidential treatment procedures.

(a) *In general.* Any submitter of written information to the ASC who desires that some or all of his or her submission be afforded confidential treatment under 5 U.S.C. 552(b)(4) (*i.e.*, trade secrets and commercial or financial information obtained from a person and privileged or confidential) shall file a request for confidential treatment with the Executive Director of the ASC at the time the written information is submitted to the ASC or within ten business days thereafter. Nothing in this section limits the authority of the ASC and its staff to make determinations regarding access to documents under this subpart.

(b) *Form of request.* A request for confidential treatment shall be submitted in a separate letter or memorandum conspicuously entitled, "Request for Confidential Treatment." Each request shall state in reasonable detail the facts and arguments supporting the request and its legal justification. If the submitter had been required by the ASC to provide the particular information, conclusory statements that the information would be useful to com-

petitors or would impair sales or similar statements generally will not be considered sufficient to justify confidential treatment. When the submitter had voluntarily provided the particular information to the ASC, the submitter must specifically identify the documents or information which are of a kind the submitter would not customarily make available to the public.

(c) *Designation and separation of confidential material.* Submitters shall clearly designate all information considered confidential and shall clearly separate such information from other non-confidential information, whenever possible.

(d) *ASC action on request.* A request for confidential treatment of information will be considered only in connection with a request for access to the information under FOIA as implemented by this subpart. Upon the receipt of a request for access, the Executive Director or his or her designee ("ASC Officer") as soon as possible shall provide the submitter with a written notice describing the request and shall provide the submitter with a reasonable opportunity, no longer than ten business days, to submit written objections to disclosure of the information. Notice may be given orally, and such notice shall be promptly confirmed in writing. The ASC Officer may provide a submitter with a notice if the submitter did not request confidential treatment of the requested information. If the ASC required the submitter to provide the requested information, the ASC Officer would need substantial reason to believe that disclosure of the requested information would result in substantial competitive harm to the submitter. If the submitter provided the information voluntarily to the ASC, the ASC officer would need to believe that the information is of a kind the submitter would not customarily make available to the public. The ASC Officer similarly shall notify the person seeking disclosure of the information under FOIA of the existence of a request for confidential treatment. These notice requirements need not be followed if the ASC Officer determines under this subpart that the information should not be disclosed; the information has been published or